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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|---------------------|
| 10/574,518 | 04/03/2006 | Shinichi Kaga | PROS:004 | 6950 |
| 37013 | 7590 | 10/02/2008 | EXAMINER | |
| ROSSI, KIMMS & McDOWELL LLP. 20609 Gordon Park Square, Suite 150 Ashburn, VA 20147 | | | | TAPOLCAI, WILLIAM E |
| ART UNIT | | PAPER NUMBER | | |
| 3744 | | | | |
| | | MAIL DATE | | DELIVERY MODE |
| | | 10/02/2008 | | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/574,518 | KAGA ET AL. | |
| | Examiner | Art Unit | |
| | William E. Tapolcai | 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 August 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11 and 21 is/are pending in the application.

4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.

5) Claim(s) 7-10 is/are allowed.

6) Claim(s) 1,2,5-11 and 21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 2, 5, 6, 11, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,769,809 to Robinson et al in view of U.S. Patent No. 6,109,048 to Kim. Robinson et al discloses an auger-type icemaker with a compressor whose motor is controlled by an outlet temperature sensor 51a for sensing the refrigerant temperature at the outlet of the evaporator. However, Robinson et al does not disclose that the rotational speed of the compressor motor is controlled in response to the sensed temperature. Kim teaches a control for a compressor motor of a refrigeration system in which the rotational speed of the compressor motor is controlled in response to the sensed evaporator temperature. Thus, it would be obvious to modify Robinson et al so that the rotational speed of the compressor motor is controlled in response to the sensed evaporator outlet temperature, in view of Kim, to yield the predictable result of more accurate control of the refrigeration system. The above proposed modification of Robinson et al by Kim would inherently perform feedback control so that the refrigerant temperature at the outlet of the evaporator would inherently be kept at a specified refrigerant outlet temperature as claimed.

3. Claims 7-10 are allowed.

4. Claims 3 and 4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or

linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 9, 2008.

5. Applicant's arguments filed August 29, 2008 have been fully considered but they are not persuasive. Applicant's remarks regarding the feedback control being part of the means plus function clause are persuasive. However, upon further consideration, it is believed that the claimed feedback control would inherently occur if Robinson et al would be modified as proposed by Kim in the above rejection. Since Robinson et al would operate in the same way as the claimed invention, if modified by Kim, the Examiner believes that the claimed feedback control would inherently occur.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E. Tapolcai/
Primary Examiner, Art Unit 3744

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September 29, 2008